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CURRENT TOPICS

The Queen and the Middle Temple

HER MAJESTY QUEEN ELIZABETH, like her famous namesake, has a keen sense of history and tradition, and it no doubt gave her great personal satisfaction to visit the Inn of which she is a Bencher in order to open the temporary library which has just been completed. Her Majesty's great interest in the law and its development was evinced in the inspiring words with which she declared the Middle Temple Library open. A library of books, said the Queen, provided a picture of history and man's progress. In the pages of those books they could read of the struggle between force and law, fought nowhere more strongly from the earliest times than in this country. The concepts of the rights of man had established themselves as legal principles and the supremacy of the courts had shielded and fortified their existence. The rule of law meant the supremacy of law, and yet it was the servant of society and not its master. The evolution of our common law provided just that union of firmness and flexibility which admitted the supremacy of law and prevented its tyranny. Its extension into international affairs could only be assured by the acceptance and proclamation of common ideals and by the recognition of an international society. The books in their great library, the Queen said, were milestones along the path on which they had come, and signposts pointing the way ahead. The library was a memorial to the past and a challenge to the future. Her Majesty's gracious act in consenting to declare the temporary library open has added to the many causes of her personal popularity, and emphasised the present-day need to rebuild on the solid foundations of our great past.

The King's Speech

AMONG "notable and unhappy omissions" mentioned by the Marquess of Reading in the House of Lords debate on the King's Speech on 13th November were the Criminal Justice Bill, which many expected to be introduced in the present session, the Bill concerned with the procedure for bringing actions against the Crown and a measure to spread the benefits of legal aid pursuant to the recommendations of the Rushcliffe Report. With regard to the Report on Legal Aid, Lord Rushcliffe, in the course of the debate on the address, said that the Committee was set up in the summer of 1944, and in February, 1945, made their report. The report was unanimous, it was very well received in both Houses of Parliament and it was very well received outside. Viscount Simon supported Lord Rushcliffe's observations, and asked the Lord Chancellor —whose heart he knew was entirely in these matters—if a private member like the noble lord, Lord Rushcliffe, or himself could introduce these measures as a matter of private members' legislation. The Lord Chancellor, in his reply, said that it was better to have a Criminal Justice Bill later when there would be some chance of getting building done. His lordship said that the penultimate clause in the King's Speech would justify introducing a Crown Proceedings Bill this session, and he was not without hope that that would be possible. With regard to the Legal Aid Bill, he would intensely like to get the Bill on, but there was still much work to be done. The Law Society were still pressing inquiries into the report and preparing their scheme. Lord Jowitt in his concluding remarks said that his department had had so few Bills that he would really press his claims, when the next session came, to let him run riot over several of them. If the omissions from the speech are worthy of note, it is only fair to say that its contents are likewise substantial. Besides the expected Bills to nationalise electricity supplies and road transport, the Government has undertaken to introduce a Bill this session to amend the Companies Act, a formidable task indeed, even with the preliminary work already done by the Cohen Committee. Then there is to be a Bill dealing with compensation for land in connection with town and country planning. Agricultural legislation is also promised.

The Cameron Report

THE fact that Scotland has had to have a separate Committee to make recommendations on legal aid brings home to English lawyers more forcibly than all the archaic phraseology of Scots law the fact that the system of law that prevails North of the Tweed is widely different from that in force in this country. On the other hand, the geographical and political unity of the two countries has necessitated their marching together in many legal matters, and the Cameron Committee was specifically asked to consider the detailed recommendations of the Rushcliffe Committee and to frame a corresponding scheme for Scotland, with the necessary modifications. A writer in the *Scots Law Times* for 16th November, 1946, points out that the Cameron Report differs from the Rushcliffe Report on at least three important points: (1) the assessment of contribution towards expenses by the assisted persons themselves; (2) *probabilis causa* in criminal cases; (3) the relationship between the Outer House and the Sheriff's Court. On the first point, they recommend that the General Council of Solicitors should be empowered to prescribe, subject to the approval of the Lord Advocate, the limit below which no contribution should be required of an assisted person, that limit in no case being below the amounts in the Rushcliffe Report, i.e., £3 or £4. Local committees are given a free hand to assess contributions. As to criminal causes, the Cameron

Committee were in a difficulty, the present English system being different from the Scottish, there being no preliminary hearing, and no depositions. The Cameron Committee rejected the Rushcliffe recommendations as to criminal defence on the ground that it would be a retrograde step to introduce an alien scheme. Their proposal is that when an accused person pleads not guilty, he should be entitled to a certificate or a declaration of means entitling him to aid, and that this assistance should be without contribution. The writer in the *Scots Law Times* also points out that the Outer House and the Sheriff's Court have practically concurrent jurisdiction, but that it is not suggested that committees should be empowered to refuse a certificate in a case which ought to be brought in the Sheriff's Court, though competent in the Court of Session. On the Committee's estimate the cost of administration will be £60,000, as against the Rushcliffe estimate of £200,000. The whole trend of the scheme, says the writer, is to widen the class of assisted persons and cut down the amounts of contributions, and he adds that the Secretary of State will have no easy task to justify the preferential treatment of Scotland.

Road Accidents

IN the House of Lords on 19th November, the DUKE OF RICHMOND AND GORDON called attention to the urgent need to implement the report of the Alness Committee on Road Accidents, and in particular those parts subsequently endorsed by the Committee on Road Safety in their interim report of December, 1944, and moved for papers. In ten years 70,000 people had been killed on the roads and 2,250,000 injured. The MARQUESS OF READING said that it was astonishing that our people had come to look upon a horrifying problem with so much apparent apathy and callousness. VISCOUNT CECIL said that roads should be classified, some for fast traffic and some for slow traffic. The use of footpaths was important and there should be good sidewalks. Pedestrians should be obliged to use them if provided. It was speed, coupled with the weight of the vehicle, that constituted the danger. EARL HOWE said that the number of road casualties over ten years was not far different from the number of casualties in Hiroshima when the atomic bomb fell. Replying for the Government, LORD WALKDEN said that a strong working committee was set up by LORD LLEWELLIN and would produce a second report within a few months. The Minister had accepted nearly all the recommendations of the Road Safety Committee. Road safety propaganda was taken up when the war was over. Between November, 1945, and March, 1946, 154 local authorities carried out approved schemes estimated to cost £10,096. Since then 700 local authorities had submitted estimates of a total expenditure of about £250,000. The Government would find half the money required. The Government had no objection to the spirit of the motion and were taking all possible measures to reduce road accidents. The motion was, by leave, withdrawn.

Delegated Legislation

THE immense pyramid of delegated legislation which is now being reared is carefully examined in the third special report of the House of Commons Select Committee on Statutory Rules and Orders. What has been called five-tier legislation is described in the report as legislation with "a pedigree of five generations"—(*a*) the statute, (*b*) the Defence Regulations made under the statute, (*c*) the orders made under the Defence Regulations, (*d*) directions made under the orders, and (*e*) licences issued under the directions. In the present session, the report states, the committee have examined 947 Statutory Rules and Orders and have drawn the attention of the House to thirty-three of them. An unusual and unexpected use of a statutory power to which the committee have from time to time drawn attention is the insertion of a provision purporting to give retrospective effect to an instrument where the parent statute confers no express authority so to provide. The committee recommend that their terms of reference be amended to enable them to call the attention of the House to any such provision in an order. The committee express the hope that, now that hostilities have ceased, departments may find themselves able so to frame any order made under Defence Regulations that it will be self-contained—in other words, to be content with the grandchildren of the statute and not to bring its great-grandchildren or great-great-grandchildren upon the scene. It is by no means clear, the report states, that Parliament contemplated these cumulative delegations. They tend to postpone the formulation of an exact and definite law and they encourage the taking of powers meanwhile in wider terms than may ultimately be required.

Secrecy of the Ballot

IN view of doubts expressed by a correspondent to *The Times* of 12th November about the secrecy of the ballot, an official of the Home Office made a statement on 13th November. He said that the procedure was prescribed by the Local Government Act, 1933, and by the Ballot Act, 1872, for the conduct of local government and Parliamentary elections respectively. In accordance with paras. 11 (*c*) and (*d*) of Pt. III of Sched. II to the Local Government Act, 1933, and the London Government Act, 1939, each ballot paper must have a number printed on the back, and must have attached a counterfoil with the same number printed on the face. By para. 18 (*c*), on the issue of a ballot paper to an elector, his number in the register of electors has to be marked on the counterfoil. The counterfoils of the ballot papers are required, by para. 26, to be sealed up in a separate package immediately after the close of the poll, and are kept in the custody of the town clerk or the clerk of the county council, as appropriate, for six months before being destroyed. The sealed packages can, in accordance with para. 41, be opened only by order of a county court or of an election court in connection with legal proceedings relating to the election. These latter provisions are a complete safeguard against the violation of the secrecy of the ballot. So far as Parliamentary elections are concerned, similar provisions are contained in s. 2 of the Ballot Act, 1872, and in rr. 24, 29, 39 and 40 of Sched. I to that Act, but the sealed packages are kept in the custody of the Clerk of the Crown in Chancery for one year before being destroyed. They can be opened only by order of the House of Commons or of a judge of the High Court in connection with legal proceedings relating to an election. If any enthusiastic democrat is still doubtful as to whether after sixty-four years of experience since the Corrupt and Illegal Practices Act was passed, the ballot in this country is completely secret, we suggest, but do not advise, that he attempt to make a leading case by suing in the High Court for a declaration that he is entitled not only to vote (*Ashby* v. *White* (1704), 1 E.R. 417), but to do so in his own way.

Legal Education of Unadmitted Clerks

MUCH highly responsible work, as every solicitor knows, is delegated to the unadmitted managing clerk, and he very often acquires a knowledge of the law affecting his department rivalling that of his principal. The Solicitors' Managing Clerks' Association has for some years past provided lectures for its London members and publishes a bi-monthly journal. In the provinces, the interests of the unadmitted clerk have of necessity been less forwarded than in London by any organised effort. A beginning has, however, recently been made by the Bristol Incorporated Law Society who, with the co-operation and assistance of the Bristol Education Committee and the Merchant Venturers' Technical College, have brought into being a scheme for the education in basic general legal principles of unadmitted clerks of the age of eighteen and upwards, including men who have returned to the profession from the services. The first course, to last twenty-five weeks, started on 6th November. It is intended that the scheme shall not finish with the first elementary course, but, if it succeeds, other courses of a more advanced type will be devised to follow it. One of the interesting features of the scheme is that it has been devised and brought into being by employers through their Law Society, thus clearly recognising that it is in the interests of both employers and

employed to spread the benefits of legal education. The Bristol Law Society deserves praise and congratulation for taking the initiative in this important matter, and we shall look forward to seeing this notable example copied by other Law Societies.

Recent Decisions

In a case before the Court of Criminal Appeal (MACNAGHTEN, SINGLETON and LEWIS, JJ.), on 19th November (*The Times*, 20th November), the court refused an application for leave to appeal against a sentence of three years' penal servitude for an offence of receiving stolen goods and stated that it could not be too widely known that condign punishment would follow the commission of that sort of offence.

In *Inland Revenue Commissioners* v. *Wesleyan and General Assurance Society*, on 19th November (*The Times*, 20th November), the Court of Appeal (the MASTER OF THE ROLLS and COHEN and ASQUITH, L.JJ.) held that a contract by which the society were to pay a lump sum at the death of a policy-holder, and the policy-holder was given the right to borrow certain sums on the security of the policy against the sum payable on death, the society having the right to call for the deposit with them of the policy, was a contract for loans, and to construe the loans as an annuity was to rewrite the contract between the parties, for which there was no justification. Therefore the sums were not assessable to income tax. In granting leave to appeal to the House of Lords, the Master of the Rolls said that the decision was of far-reaching importance and it would be unsatisfactory not to have a case of that kind decided by the final tribunal.

In a case in the Court of Appeal (the MASTER OF THE ROLLS, and COHEN and ASQUITH, L.JJ.), on 21st November (*The Times*, 22nd November), it was held that a tribuna' consisting of two Commissioners for Special Purposes of the Income Tax Acts was a properly constituted tribunal for the hearing of income tax appeals.

In *In re* 36, 38, 40 *and* 42, *Jamaica Street, Stepney*, on 22nd November (*The Times*, 23rd November), VAISEY, J., held that where old houses were damaged by bomb blast so that already defective front walls had to be rebuilt, the War Damage Commission had to bear the whole of the cost of rebuilding, because although the principle of apportioning the cost in such a case, adopted by the War Damage Commission, was fair, in the present case there was no finding to the effect that the walls would have fallen down within any measurable distance of time if no enemy action had injured them, and the damage was therefore the " direct result " of enemy action within s. 2 (1) of the War Damage Act, 1943.

In *McCarrick* v. *Liverpool Corporation*, on 22nd November (*The Times*, 23rd November), the House of Lords (LORD THANKERTON, LORD MACMILLAN, LORD PORTER, LORD SIMONDS and LORD UTHWATT) held that unless and until notice was given to a landlord of a defect in steps leading from a kitchen to a back kitchen, rendering a dwelling-house not " reasonably fit for human habitation " within s. 2 of the Housing Act, 1936, the landlord could not be held liable for damages resulting from the defect, as the statutory liability of the landlord was not absolute but was a term imported by statute into the tenancy, which must be construed like any other term in the tenancy.

CRIMINAL LAW AND PRACTICE

RIGHT OF DEFENDANT'S ADVOCATE TO ADDRESS THE BENCH

ADVOCATES of many years' experience sometimes find themselves momentarily at a loss when, in defending an accused person in a strange court, they find that their right to address the court at a stage at which they are accustomed to do so is challenged by the clerk or the bench. For instance, the advocate who is accustomed to address the bench after his client and witnesses for the defence have been called, may consider it unfair if another court tells him that he must confine his observations to a speech before calling his evidence, or that he may only address the bench after the evidence if he calls no other witnesses besides his own client. It may seem unfair that he is only allowed to comment on the effect of the evidence he has himself tendered before it has been given and its true effect become visible.

What are the powers of the bench with regard to the laying down of any rule of practice on such matters? Reference must be made to s. 14 of the Summary Jurisdiction Act, 1848, dealing with proceedings on the hearing of informations of offences punishable summarily. It is laid down in that section that the justice or justices must hear " the defendant and such witnesses as he may examine and such other evidence as he may adduce in his defence." It further provides that " the prosecutor or complainant shall not be entitled to make any observations in reply upon the evidence given by the defendant, nor shall the defendant be entitled to make any observations in reply upon the evidence given by the prosecutor or complainant in reply as aforesaid."

Pausing there, it should be observed that the words " as aforesaid " refer to the prosecutor's right to call witnesses in reply if the defendant shall have examined any witnesses or given any evidence other than as to his the defendant's general character, as stated in the section.

The section therefore only authorises one restriction of the defendant's usual right to address the court after both his and the prosecutor's witnesses have been called. That restriction is that he is not entitled to make any observations in reply upon the evidence given by the prosecutor or complainant in reply.

If this is right, what seems to have happened in some courts is that when the practice was laid down the clerk of the court has misunderstood the effect of s. 14 and construed it to mean that the defendant's advocate loses his right of addressing the court after all the evidence has been called if he calls witnesses. That cannot be right, nor, indeed, can any other restriction on the defendant's right to be heard be authorised or just.

It is unfortunate that advocates do not insist upon their rights in this matter, for their right is the right of the citizen to be heard. Cases can and do occur where it is vital for an advocate for the defence to be able to comment on the apparent honesty and the demeanour of a witness called on behalf of the defendant. It is the duty of the bench to hear such comment, and this should be insisted upon whenever necessary.

VARYING SENTENCES

Is there a remedy for the unfairness of widely divergent sentences being awarded for precisely the same offence in different courts? Sir Theobald Mathew, Director of Public Prosecutions, in his evidence before the Royal Commission on Justices of the Peace, on 13th November, suggested that many justices do not take nearly enough trouble in determining what to do with a person after he or she has been found guilty. He suggested that background information, both on the crime and the circumstances of the individual, should be given to the Bench before sentence was decided. Over and over again justices said : " If only I had known that I should not have sent him to prison," or " I should have sent him to prison." There was a tendency to think the job was finished when it had been decided that a person was guilty. It is respectfully contended that there is more in it than that, although such information might be regarded as an irreducible minimum. It would be interesting, for example, to know how many magistrates have any accurate idea of the sort of life they are sending prisoners to when they award terms of imprisonment, or how many have even got so far as to read the Home Office pamphlet on Prisons and Borstals. Ignorance of the punishments awarded may have much to do with the variation between different sentences.

The Director's evidence underlined the seriousness of this. " It was not so much that there were startling variations in

the kind of sentence" (he said) "but one could not help feeling that there were startling miscarriages of justice as regards the individual. Sometimes it was undue leniency, sometimes undue severity."

The Chief Constable of Northampton, leading a deputation representing Chief Constables of England and Wales, expressed the view that probably about 90 per cent. of justices had no conception of the modern corrective system for young persons, or what was being done in the prisons themselves. Every justice ought to visit such places and see what was being done.

This is a startling percentage, and even if it is only based on an impression and not on any available figures, it is an impression which is shared by large numbers of persons with experience of the magistrates' courts. The problem is one of the most important of the many that the Royal Commission has to solve.

COMPANY LAW AND PRACTICE

DEFECTS IN THE APPOINTMENT AND QUALIFICATION OF DIRECTORS—III

LAST week I mentioned the principal cases in which s. 143 of the Companies Act, 1929, and cl. 88 of Table A, or similar provisions, have been held by the court to validate the acts of *de facto* directors in regard to whose appointment there has been some irregularity; and I concluded with a reference to *Morris* v. *Kanssen* [1946] A.C. 459, in which the House of Lords has held that such provisions have no application where the directors in question were never appointed at all, so that it is a question not of a defect in appointment, but of a complete absence of appointment. It may be convenient, before going any further, to set out the words of the section and the article again, especially as I shall be drawing attention to their precise wording. Section 143 provides that: "The acts of a director . . . shall be valid notwithstanding any defect that may afterwards be discovered in his appointment or qualification," and cl. 88 of Table A is in these terms: "All acts done by any meeting of the directors . . . or by any person acting as a director, shall notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such director or person acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a director."

The proposition that these provisions have no application where there has been no appointment of directors at all needs, I think, a little elaboration; for standing by itself as an abstract proposition it might mislead. "No appointment at all" is not the same thing as "no valid appointment"; in the cases in which provisions of this nature have been held to apply, the appointments were all, strictly speaking, invalid because of a particular defect, and just because it was afterwards discovered that the appointment was in consequence not a valid one the provisions were sought in aid. Thus, in the case where the directors had been appointed by a meeting of the company of which less than the required length of notice had been given, the appointment was technically invalid, but the directors' acts were rendered good by provisions similar to those in cl. 88 of Table A. In fact, such provisions would have no scope for operation if they did not apply where there was an invalid appointment; it is the invalidity which they are designed to cure. The case where they do not apply, the case, that is, where there is no appointment at all, can be illustrated by the perhaps extreme example given by Chitty, L.J., in *Dawson* v. *African Consolidated Land Co.* [1898] 1 Ch. 6 of three or four strangers going into a company's board room and passing a resolution; or by the facts in *Morris* v. *Kanssen*, where one of two alleged directors had assumed office without any authority (a false minute to the effect that he had been appointed was entered in the minute book), and the other had ceased to be a director under an article providing for the retirement of the directors at the ordinary general meeting of the company and had not been re-elected. (In fact, the ordinary general meeting for the year in question was not held.) These are clearly cases not of defects in appointment, but of no appointment at all, in the sense, that is, that there was no act purporting to be an appointment, no genuine attempt to appoint at all. There must be some elements constituting an appointment before s. 143 or the corresponding article can apply to cure what is defective in those elements.

In most cases it will not be very difficult to decide whether or not there has been something purporting to be an appointment, but I am not sure how some of the earlier decisions, where the validating provisions were held to apply, are to be explained. It was held in *Morris* v. *Kanssen* that where the term of office of a director has expired, but he nevertheless continues to act as a director without reappointment, this is a case where s. 143 of the Act and cl. 88 of Table A cannot be invoked because it is the same thing as there being no appointment at all. But in *British Asbestos Co.* v. *Boyd* [1903] 2 Ch. 439 it will be remembered that a director retired under the articles by reason of his accepting the office of secretary, but continued bona fide to act as a director; that is to say, there was no appointment at all, but nevertheless the validating provisions were held to apply. Similarly, in *Dawson* v. *African Consolidated Land Co.*, *supra*, the director lost office because he ceased to hold the necessary qualification shares; he reacquired them in a few days' time and continued to act as director, but there was no formal reappointment; nevertheless, his acts were held to be good. Both these cases were referred to in *Morris* v. *Kanssen* without disapproval, and would, I think, be followed on similar facts to-day. At first sight, however, they do appear to be cases of "no appointment at all," but in both there are additional circumstances to be taken into account. In *Boyd's* case there was an article in the terms of cl. 88 of Table A, *supra*, which, it will be observed, validates the acts of a director not only in the case where there was a defect in the appointment, but also where he was "disqualified." This, Farwell, J., held, does not simply mean disqualified by ceasing to hold qualification shares, but also includes disqualified by doing some act or suffering something to happen which causes a director to vacate office under an article providing for the vacation of office on the happening of certain events. The director had vacated office by being appointed secretary and thereby became "disqualified"; and his acts were validated by an article in the form of cl. 88 of Table A because this was a case not of defect in appointment, but of disqualification within the terms of that article. Similarly, in *Dawson's* case, the director had become disqualified by losing his qualification shares, and the article equally validated the acts of a director who was disqualified. (It may also be observed that in this case the court seemed disposed to treat the fact of his having continued to act, with the full knowledge and approval of his fellow directors, as a defective appointment.)

The point I am making is that where there is an article in the form of cl. 88 of Table A there are two *alternative* cases where the acts of the *de facto* director are validated: (1) notwithstanding a defect in appointment and (2) notwithstanding disqualification; and that where a director has vacated office under an article providing for the cessation of office in certain events, but bona fide continues to act, this is a case of "disqualification," and his acts will be good under the second head. True, it would be a case of absence of appointment (or, strictly, reappointment), not of defect in appointment, so that you could not bring it under the first head; but if "disqualification" bears the wider meaning given it by Farwell, J., the case falls within the second. But it falls within neither if there was no original appointment at all or if the office is vacated by retirement under the articles as contrasted with "disqualification" by the articles. This at least seems to be the result of the cases.

In this respect it should be observed that s. 143 of the Act does not appear to be so wide as cl. 88 of Table A. They are

the same in regard to defects in appointment, but whereas cl. 88 goes on to speak of "disqualification" the section refers only to "defect in qualification," and the word "qualification" in the section can, I think, only have the narrower meaning of "holding of qualification shares"—it is not apt to cover the wider ground available to its converse "disqualification." The section, that is to say, would not have applied in *Boyd's* case, but the wider terms of the article did. And I venture to think that, though it has been held that the section has no application in the case of a complete absence of appointment, the logical conclusion that neither does it apply to a complete absence of the necessary qualification shares would not be drawn, for it is difficult to see what defect in qualification there can be except the absence of qualification shares, and if you exclude that case from the operation of the section what is there left for "defect in qualification" to apply to? So that it seems to me that the acts of a director formally appointed would be validated by the section if he did not hold the necessary qualification shares even if the articles make the holding a condition precedent to appointment: cl. 88 of Table A certainly applies to such a case (see *Channel Collieries Trust, Ltd.* v. *Dover etc., Railway Co.* [1914] 2 Ch. 506, to which I referred last week).

In the *Kanssen* case the Court of Appeal ([1944] Ch. 346) gave a decision on two important points which arise in regard to the section and article and which the House of Lords, in the view which it took, found it unnecessary to decide. First, the Court of Appeal held that these validating provisions apply where one party to a transaction is unaware of the defect though the other may be aware of it. We have seen that the provisions do not apply where at the time of the transaction the defect is known; this means, known to the party claiming the benefit of the provisions. If the *de facto* directors are aware of the defect in their appointment, the company cannot claim the benefit of these provisions, but a third party dealing with such directors and being himself unaware of the defect can rely on them. Secondly, actual ignorance of the defect will not entitle a party to a transaction to rely on the provisions if he is put on inquiry and fails to make such reasonable inquiries as the circumstances demand. In both respects it will be observed that the section and the article operate within the same limits as the rule in *Royal British Bank* v. *Turquand* (1856), 6 E. & B. 327—the person claiming protection is entitled to it if (*a*) he is ignorant of the irregularity notwithstanding that those purporting to act for the company are aware of it, and (*b*) he has not been put on inquiry and failed to make reasonable inquiries. Note finally that though the facts may disentitle a person to rely on s. 143 of the Act (where, as in *Morris* v. *Kanssen*, there has been a complete absence of appointment), he may nevertheless be entitled to claim the protection given by the rule in *Royal British Bank* v. *Turquand*, if the same facts are within the scope of that rule. The section and the rule overlap to some extent, but the areas which they cover do not coincide.

A CONVEYANCER'S DIARY

TRUSTEE ACT, SECTION 31

WHILE the statutory power of advancement conferred by s. 32 of the Trustee Act, 1925, is altogether new, and applies only to trusts coming into operation after the end of 1925, the Conveyancing Act, 1881, did contain a section (s. 43) corresponding in part to s. 31 of the Trustee Act, which confers the statutory power of maintenance, but considerably different from it. The result is that in the case of trusts coming into force before 1926, one must still look at the Conveyancing Act for the power of maintenance; that power is to be found in s. 31 of the Trustee Act only as regards trusts coming into force after 1925. Moreover, the new section deals with other important matters besides maintenance.

Section 31 (1) provides as follows:—

"Where any property is held by trustees in trust for any person for any interest whatsoever, whether vested or contingent, then, subject to any prior interests or charges affecting that property—

(i) during the infancy of any such person, if his interest so long continues, the trustees may, at their sole discretion, pay to his parent or guardian, if any, or otherwise apply for or towards his maintenance, education or benefit, the whole or such part, if any, of the income of that property as may, in all the circumstances, be reasonable, whether or not there is—

(*a*) any other fund applicable to the same purpose; or

(*b*) any person bound by law to provide for his maintenance or education; and

(ii) if any such person on attaining the age of twenty-one years has not a vested interest in such income, the trustees shall thenceforth pay the income of that property and of any accretion thereto under subsection (2) of this section to him, until he either attains a vested interest therein or dies, or until failure of his interest:

Provided that, in deciding whether the whole or any part of the income of the property is during a minority to be paid or applied for the purposes aforesaid, the trustees shall have regard to the age of the infant and his requirements and generally to the circumstances of the case, and in particular to what other income, if any, is applicable for the same purposes; and where trustees have notice that the income of more than one fund is applicable for those purposes, then, so far as practicable, unless the entire income of the funds is paid or applied as aforesaid or the court otherwise directs, a proportionate part only of the income of each fund shall be so paid or applied."

This subsection gives to trustees an extremely wide discretion, so long as the person entitled is an infant. But once he attains the age of twenty-one years, they no longer may, but must, pay him the whole income, even if his interest is still contingent, until he attains (say) twenty-five years, the vesting age. The contrast is sharp: while he is under twenty-one, the trustees may decide how much (if anything) is to be applied, accumulating the rest; they may also decide whether to pay it to the infant beneficiary or to apply it for his benefit themselves. After he is twenty-one, they have no choice either as to quantum or destination. In *Re Spencer* [1935] Ch. 533, Clauson, J., decided that since the operative word in para. (ii) is "shall," it is not possible for trustees to do anything with the income after the beneficiary attains twenty-one, except pay it to him, even if the trust instrument expressly directs otherwise. But this decision was disapproved by the Court of Appeal in *Re Turner* [1937] Ch. 15. The judgment of the court was read by Romer, L.J., who explained that this provision of s. 31 was first introduced by the Act of 1922, and was then accompanied by a subsection to the effect that it was only to apply in the absence of a contrary intention in the trust instrument. That subsection had been dropped in the Act of 1925; but that Act was a mere consolidation and could not be treated as having so drastically altered the law. The matter was covered by s. 69 (2) of the 1925 Act, which provides that the powers conferred by the Act shall, unless otherwise stated, apply only in the absence of a contrary instruction in the trust instrument. This construction may seem a little strained, since a mandatory direction would not normally be described as a "power," but the other construction involves the proposition that the consolidation Act changed the law. It follows from *Re Turner*, that para. (ii) of s. 31 (1) is capable of modification by the express terms of the trust instrument: but unless it is so modified, the direction is mandatory. It seems to me desirable in most cases where the sums are considerable and where the vesting is postponed beyond the

beneficiary's attainment of twenty-one years, to consider inserting a clause providing that "in its application to this settlement subs. (1) of s. 31 of the Trustee Act, 1925, shall be read or construed as if the word 'may' were substituted for the word 'shall' where it appears in para. (ii) thereof."

It is, however, important to note the restriction placed upon the application of subs. (1), and indeed of the section generally, by subs. (3), which provides as follows: "This section applies in the case of a contingent interest only if the limitation or trust carries the intermediate income of the property, but it applies to a future or contingent legacy by a parent of, or a person standing *in loco parentis* to, the legatee, if and for such period as, under the general law, the legacy carries interest for the maintenance of the legatee, and in any such case as last aforesaid, the rate of interest shall (if the income available is sufficient, and subject to any rules of court to the contrary) be five pounds per centum per annum." The last few words serve to remind us how old the "new" property legislation has become. The question what interests carry intermediate income is one of some complexity, and must be reserved for full treatment on a future occasion. The point of importance for the present purpose is that whenever one is considering s. 31 in connection with a contingent interest, one must begin by inquiring into the prior question whether the interest carries intermediate income.

Returning to subs. (2) we find a comprehensive set of rules as to the accumulations of income not required for the purposes of subs. (1). Subsection (2) is as follows:—

> "During the infancy of any such person [*sc.* as is the object of maintenance under subs. (1)], if his interest so long continues, the trustees shall accumulate all the residue of that income in the way of compound interest by investing the same and the resulting income thereof from time to time in authorised investments, and shall hold those accumulations as follows:—
>
> (i) If any such person—
>
> (*a*) attains the age of twenty-one years, or marries under that age, and his interest in such income during his infancy or until his marriage is a vested interest; or
>
> (*b*) on attaining the age of twenty-one years or on marriage under that age becomes entitled to the property from which such interest arose, in fee simple, absolute or determinable, or absolutely, or for an entailed interest;
>
> the trustees shall hold the accumulations in trust for such person absolutely, but without prejudice to any provision with respect thereto contained in any settlement by him made under any statutory powers during his infancy, and so that the receipt of such person after marriage, and though still an infant, shall be a good discharge; and
>
> (ii) In any other case the trustees shall, notwithstanding that such person had a vested interest in such income, hold the accumulations as an accretion to the capital of the property from which such accumulations arose, and as one fund with such capital for all purposes, and so that, if such property is settled land, such accumulations shall be held on the same trusts as if the same were capital money arising therefrom;
>
> but the trustees may, at any time during the infancy of such person if his interest so long continues, apply those accumulations, or any part thereof, as if they were income in the then current year."

This subsection does not follow the corresponding provisions of the Conveyancing Act, and requires close study. It is, perhaps, rather easily forgotten, as it forms part of a section which we mostly think of as the one dealing with the maintenance of infant beneficiaries: subs. (2) affects matters of title, not merely of application.

The rest of the section need not detain us: subs. (4) deals with vested annuities; subs. (5) provides that the section shall not be retrospective. Section 31 is, as we have seen, of substantial length and scope. I hope that to set out its three main subsections in full may be of some help in seeing it in perspective.

LANDLORD AND TENANT NOTEBOOK

SIMPLIFIED DRAFTING: SECOND THOUGHTS

SINCE I first wrote pleading for simplification of the language used in leases and tenancy agreements in our issue of 14th September last (90 SOL. J. 438), I have been accused, *inter alia*, of irreverence, iconoclasm and irrelevance, especially in connection with my characterisations of the word "covenant" and suggestions for replacing it by other words.

The most recent letter on the subject, the third letter from Mr. H. F. Cain, which appeared in our issue of 16th November (90 SOL. J. 554), has caused me to modify some of my views as regards the desirability, rather than the inherent wickedness, of some measure of iconoclasm; but before dealing with that point I would recall that I selected the word "covenant" merely as an example to illustrate my general theme, the reason for selecting it being that in my experience it is often the word which causes an intending tenant to desist from his efforts and sign the counterpart without further perusal.

It was, indeed, with intending tenants that I was mainly concerned in putting forward my plea. Such persons can, like other parties to conveyances, be divided into two kinds: those who do, and those who do not, seek professional assistance. But in the case of tenancies and leases, the latter, for reasons which need not be gone into, far outnumber the former; and I now propose to support my plea by recalling two of a vast number of decisions on the effect of a covenant to pay outgoings, to which I briefly referred in my original article. Both cases date from the year 1903, one being in the King's Bench Division, the other in the Chancery Division of the High Court.

In *Stockdale* v. *Ascherberg* [1903] 1 K.B. 873 it appeared that the defendant had taken a dwelling-house at a rent of £55 a year, agreeing to pay "all taxes, rates, assessments and outgoings of every description for the time being payable in respect of the premises as they become due, landlord's property tax only excepted." A few months after the term had commenced, the local council served his landlord with a nuisance abatement notice requiring her to relay a drain, with which she complied at a cost of £83 10s. She sued for, and recovered, this sum. In *Re Warriner, Brayshaw* v. *Ninnis* [1903] 2 Ch. 367 the facts were that a tenant had taken a house and garden for three years by an agreement under seal, at the clear yearly rent of £54 to be paid free and clear of and from all deductions whatsoever (property tax on the said rent only excepted) and had agreed to "pay and discharge all rates, taxes, assessments and impositions whatsoever, whether parliamentary, parochial or otherwise, that may become due or assessed in respect of the messuage, premises and garden during the tenancy (property tax only excepted as aforesaid)" and "to keep the messuage, premises and garden in as good state, order, and condition and repair as at the commencement of the tenancy (fair wear and tear and accidental damage by fire in the meantime only excepted)." This time, notices relating to defective drainage were served on both parties; the tenant carried out the work at a cost of £118, for which amount she now sought in vain to establish a claim against the landlord's estate, he having died insolvent.

Now the statements of facts in those cases do not make it clear whether the instruments used the word "covenant" or not, the decision in the one turning substantially on the meaning of "outgoings" and in the other on that of "impositions." But, reading the agreements or covenants (counsel and judges, by the way, spoke of them as "covenants" in each case, so cannot have been embarrassed if the documents did not use that word), can one fairly say that they conveyed what was contemplated and intended? In the Court of

Appeal, Collins, M.R., expressed sympathy for the tenant in *Stockdale* v. *Ascherberg*, "who complains of being mulcted to the extent of more than a year and a half's rent in respect of the expenses of *an improvement*, which he did not contemplate"; and I would agree that he was perhaps more deserving of sympathy than the tenant in *Re Warriner*, who might have at least been put on her inquiry by the "free and clear of and from all deductions" and repair provisions.

But when the learned Master of the Rolls, later in his judgment, speaks of a tenant making an agreement "in perfectly clear and unambiguous terms" and declines to "throw aside the plain meaning of the language used" (a passage since cited with approval by Scrutton, L.J., in the "road charges" case of *Lowther* v. *Clifford* [1927] 1 K.B. 130 (C.A.)), I would respectfully inquire, clear and plain to whom? For it can hardly be denied that the parties to the agreements probably regarded the covenants as designed to make the tenant responsible for outgoings of a recurring nature (cf. "income"), *ejusdem generis* with rates, and not for contributions towards capital which would benefit the covenantee long after the tenancy had ceased. And I suggest that simpler language would have proved a better medium of expression.

However, what I will concede is that laymen who come into direct contact with conveyancing lawyers and their managing clerks (if I may slightly modify the terms of Mr. Cain's recent letter) will understand the meaning, not only of "covenant" but of "outgoings," for it is the function of their advisers to explain these meanings to them. But there are a vast number of laymen who do not enjoy such contact, and I cannot see why these should suffer because innovation is being resisted by others. For when I say that it is the function of conveyancing lawyers to explain these things, I do not mean that it is their main function, or one that could not conveniently be eliminated. And I hope that Mr. Cain will not detect a snigger this time if I say that I am reminded of the annual efforts made by my Sunday School teacher, and presumably made annually still by each and every such teacher, to point out that the word "indifferently" in the phrase "indifferently administer justice" merely meant "impartially."

I welcome "Managing Clerk's" latest letter, published on p. 583 of this issue; but it appears to beg the question, being based on the assumption that simplification entails ambiguity or obscurity, and that the unfamiliar has terrors for our judges. Well, to take the word "covenant" again, I find that in *Great Northern Railway Co.* v. *Harrison* (1852), 12 C.B. 576, Parke, B., had little difficulty in coming to the conclusion "no particular form of words is necessary to form a covenant; wherever the court can collect from the instrument an engagement on the one side to do or not to do something, it amounts to a covenant"; and Grove, J., in *Brookes* v. *Drysdale* (1877), 3 C.P.D. 52, laid down a similar proposition, supporting his opinion by quotations from ancient and well-tried authoritative works such as "Comyns' Digest" and Sheppard's "Touchstone." I really cannot see much ambiguity or controversy resulting from the replacement of "covenant" by "undertake." Confessing my Benthamite leanings, but adapting the language of the proviso to para. (*h*) of Sched. I to the Rent, etc., Restrictions (Amendment) Act, 1933, to my particular occasion, I submit that greater hardship would be caused to more people by continuing the use of technical phraseology and expressions than by simplified drafting.

FURNISHED HOUSES RENT CONTROL: "REASONABLE" RENT

Wide publicity was given in the daily press to the utterances of the chairman of the Willesden Furnished Rent Tribunal on 20th November, and I do not think that either Mr. H. F. Cain or "Managing Clerk" would consider the big and strange words appropriate to the occasion. But from the legal point of view, what was of interest was a reference, in the less obscure and less offensive part of those utterances, to cases in which young married couples were called upon to pay out 80 per cent. of their income in rent. For this draws attention to a problem which I mentioned when I first discussed the operation of the Furnished Houses (Rent Control) Act, 1946 (90 SOL. J. 195): s. 2 (2) directs the tribunal, *inter alia*, to "approve the rent payable under the contract or reduce it to such sum as they may, *in all the circumstances*, think reasonable"; but there is no definition of "reasonable" or of "all the circumstances." The conclusion at which I tentatively arrived, and which has since been to some extent supported by the contents of the Furnished Houses (Rent Control) Regulations, 1946, Sched. I (particulars concerning which lessors may be required to give information), is that the Act is designed to improve upon the old, ineffective provisions of s. 9 of the Increase of Rent, etc., Act, 1920, which placed upon the tenant the burden of ascertaining what was the "normal profit" at some earlier date; but that profit remained the dominant element in reasonableness, so that the Act would not necessarily result in equal rent for equal accommodation. For the particulars mentioned do include what price the particular lessor paid, if owner; though not whether he is a "zeugmatic" owner wearing a "zoot" suit.

TO-DAY AND YESTERDAY

November 25.—On 25th November, 1577, the Gray's Inn Benchers ordered: "Mr. Kytchin and Mr. Whiskins to take the account of Mr. Anger for the fuel money for the two years last past." Richard Anger, as "fueler," had had £10 delivered to him in 1574 "for the provision of the fuel for the Hall." He had a large practice and was one of the wealthiest members of the Inn. He was elected joint Treasurer in 1578, 1585 and 1598, but in the last year he was strangled in his chambers, his body being found a month later in the Thames. His son, Richard, was hanged for the murder. He was descended from the Counts of Angers and his son Francis became a peer as Lord Aungier. Francis and his brother Edward were both members of the Inn.

November 26.—On the following day, 26th November, an account was rendered by Laurence Blundstone and Geoffrey Nightingale, collectors of the benevolence gathered for Mr. Serjeant Shute. The total sum of £27 10s. was ordered to be delivered to him. Robert Shute was a prominent member of Gray's Inn, and Shute's Buildings stood until 1627 just north of the gateway into Gray's Inn Lane. This "benevolence" was a farewell gift on his becoming a Serjeant-at-law. He became first a Baron of the Exchequer and then a judge of the Queen's Bench.

November 27.—On 27th November, 1609, the Gray's Inn Benchers forbade members to come into Hall in boots under pain of a fine of 12d. The attention of the Benchers was also called to various matters, such as "the lodging of strangers in the House, the lying out of commons of such gentlemen of this Society as use to lodge in the House and other necessary matters."

November 28.—On 28th November, 1649, Parliament ordered "that the Benchers of the severall Inns of Court and the Heads of the several Inns of Chancery be enjoined and required respectively not to permit any public revelling or gaming in any of the said Inns of Court or Chancery."

November 29.—By 1669 the system of Readings was breaking down in the Inns of Court. Members were often appointed Benchers not by virtue of having delivered a Reading but on giving an undertaking to read and this undertaking was sometimes enforced with difficulty. Thus, on 29th November, at Gray's Inn, William Lane, John Otway and Robert Pickering were called to the Bench. All were subsequently called on to read. One member was fined £10 and another £20 for refusing to read. Five other defaulters had not paid fines imposed on them for not reading and their chambers were ordered to be seized.

November 30.—In 1721 Gray's Inn was reorganising its staff. On 30th November it was ordered that the head porter should have £18 a year "and all fees and perquisites of or belonging to the head porter as also the shops the former porter had." The under porter was to have £9 a year and all the fees and perquisites of the former porter's man and of the scavenger, "which place is now vacated." Part of the head porter's duty was to trim the

(*Continued on p.* 583)

COUNTY COURT CALENDAR FOR DECEMBER, 1946

Circuit 1—Northumberland
His Hon. Judge Richardson
Alnwick,
Berwick-on-Tweed,
Blyth, 2
Consett, 6
Gateshead, 3
Hexham,
Morpeth,
†*Newcastle-upon-Tyne, 11, 13 (J.S.), 19 (B.)
North Shields, 12
Seaham Harbour, 16
South Shields, 4
Sunderland, 18

Circuit 2—Durham
His Hon. Judge Gamon
Barnard Castle, 5
Bishop Auckland, 17
Darlington, 4, 18
*Durham, 3 (J.S.), 16
Guisborough,
Leyburn,
Middlesbrough, 12 (J.S.)
Northallerton, 19
Richmond,
†*Stockton-on-Tees, 10
Thirsk,
West Hartlepool, 11

Circuit 3—Cumberland
His Hon. Judge Allsebrook
Appleby, 16
†*Barrow-in-Furness, 4, 5
Brompton,
*Carlisle, 18
Cockermouth,
Haltwhistle, 14
*Kendal, 17
Keswick, 5 (R.)
Kirkby Lonsdale,
Millom,
Penrith, 19
Ulverston, 3
†*Whitehaven, 11
Wigton, 13
Windermere, 6
*Workington, 12

Circuit 4—Lancashire
His Hon. Judge Peel, O.B.E., K.C.
Accrington, 19
†*Blackburn, 2, 10 (J.S.), 16, 20 (R.B.)
†*Blackpool, 4, 5, 11, 12, 18 (J.S.) (R.B.)
Chorley, 9
Lancaster, 6
†*Preston, 3, 17 (J.S.), 30 (R.B.)

Circuit 5—Lancashire
His Hon Judge Harrison
†*Bolton, 4, 18 (J.S.)
Bury, 2 (J.S.), 16
*Oldham, 5, 19 (J.S.)
Rochdale, 6 (J.S.), 20
*Salford, 3, 9, 13, 17 (J.S.)

Circuit 6—Lancashire
His Hon. Judge Crosthwaite
His Hon. Judge Proctor
†*Liverpool, 2, 3, 4, 5, 6, 9, 11, 12, 13, 16, 17, 18, 19, 20
St. Helens, 4, 18
Southport, 3, 17
Widnes, 6
*Wigan, 5, 19

Circuit 7—Cheshire
His Hon. Judge Burgis
Altrincham, 4 (J.S.), 18
*Birkenhead, 4 (R.), 9, 11, 13, 17, 18 (R.), 20
Chester, 3
*Crewe, 6
Market Drayton,
Nantwich,
*Northwich, 19
Runcorn, 10
*Warrington, 5, 12 (J.S.)

Circuit 8—Lancashire
His Hon. Judge Rhodes
Leigh, 13
†*Manchester, 3, 4, 5, 9, 10, 11, 12, 13 (B.), 17, 18

Circuit 10-Lancashire
His Hon. Judge Kaleigh Batt
*Ashton-under-Lyne, 13
*Burnley, 5, 6
Colne,
Congleton, 20
Hyde, 11
*Macclesfield, 10
Nelson, 4
Rawtenstall, 18
Stalybridge, 19 (J.S.)
*Stockport, 17
Todmorden, 3

Circuit 12—Yorkshire
His Hon. Judge Rice-Jones
*Bradford, 5, 13, 18 (J.S.)
Dewsbury, 16
*Halifax, 12
*Huddersfield, 10, 11
Keighley, 3
Otley, 4
Skipton, 2
Wakefield, 10, 17

Circuit 13—Yorkshire
His Hon. Judge Essenhigh
*Barnsley, 4, 5, 6
Glossop, 18
Pontefract, 16, 17
Rotherham, 10, 11
*Sheffield, 3 (J.S.), 12, 13, 19, 20

Circuit 14—Yorkshire
His Hon. Judge Stewart
His Hon. Judge Ormerod
Harrogate, 13
Leeds, 4, 10 (R.B.), 11, 12 (J.S.), 18, 19 (J.S.)
Ripon, 10
Tadcaster, 3
York, 17

Circuit 16—Yorkshire
His Hon. Judge Griffith
Beverley, 6
Bridlington, 2
Goole, 17 (R.), 20
Great Driffield,
†*Kingston upon Hull, 9 (R.), 10 (R.), 11, 12, 13 (J.S.), 16 (R.B.), 30 (R.)
Malton,
Scarborough, 3, 4, 10 (R.B.)
Selby,
Thorne, 19
Whitby,

Circuit 17—Lincolnshire
His Hon. Judge Shove
Barton-on-Humber, 13, 20 (R.)
†*Boston, 12 (R.) (R.B.), 19
Brigg, 2
Caistor,
Gainsborough, 18 (R.), 23
Grantham, 11 (R.), 20
†*Great Grimsby, 5 (R.B.), 11 (J.S.), 12, 17
(*R. every Wednesday*)
Holbeach, 20 (R.)
Horncastle, 13 (R.)
*Lincoln, 12 (R.) (R.B.) 16
*Louth, 30
Market Rasen, 17 (R.)
Scunthorpe, 10, 16 (R.)
Skegness, 20 (R.)
Sleaford, 3
Spalding, 18
Spilsby, 5

Circuit 18—Nottinghamshire
His Hon. Judge Caporn
Doncaster, 4, 5, 17
East Retford, 3
Mansfield, 2, 16
Newark, 10 (R.)
*Nottingham, 5 (R.B.), 11, 12, 13 (J.S.), 18, 19, 20 (B.)
Worksop, 10, 17 (R.)

Circuit 19-Derbyshire
His Hon. Judge Willes
Alfreton, 10
Ashbourne, 3
Bakewell,
Burton-on-Trent, 11 (R.B.)
Buxton, 9
Chesterfield, 6, 13
*Derby, 4, 17 (R.B.), 18, 19 (J.S.)
Ilkeston, 17
Long Eaton,
Matlock, 16
New Mills,
Wirksworth,
Ludlow, 9
Machynlleth, 6
Madeley, 12
Newtown, 5
Oswestry, 3
Shrewsbury, 16, 19
*Wellington, 17
Welshpool, 11
Whitchurch, 18

Circuit 20—Leicestershire
His Hon. Judge Field, K.C.
Ashby-de-la-Zouch, 12
*Bedford, 10 (R.B.), 11
Hinckley,
Kettering, 17
*Leicester, 2, 3, 4 (J.S.), (B.), 5 (B.), 6 (B.)
Loughborough, 10
Market Harborough,
Melton Mowbray, 13
Oakham,
Stamford,
Wellingborough, 19

Circuit 21—Warwickshire
His Hon. Judge Finnemore
His Hon. Judge Tucker (Add.)
*Birmingham, 2, 3 (B.), 4, 5, 6, 9, 10, 11, 12, 13, 16, 17, 18, 19, 20

Circuit 22—Herefordshire
His Hon. Judge Langman
Bromsgrove, 13
Bromyard, 19
Evesham, 18
Great Malvern, 2
Hay, 4
*Hereford, 10
*Kidderminster, 3
Kington, 11
Ledbury, 23
*Leominster, 9
Ross, 20
*Stourbridge, 5, 6
Tenbury, 12
*Worcester, 16, 17

Circuit 23 — Northamptonshire
His Hon. Judge Forbes
Atherstone,
Banbury, 13
Bletchley,
Chipping Norton, 11
*Coventry, 9 (R.B.), 10
Daventry,
Leighton Buzzard, 19
*Northampton, 10 (R.) (R.B.), 16, 17
Nuneaton, 4
Rugby, 5
Shipston-on-Stour, 23
Stow-on-the-Wold,
Stratford-on-Avon, 12
Warwick, 20 (R.B.)

Circuit 24 — Monmouthshire
His Hon. Judge Thomas
Abergavenny, 13
Abertillery, 10
Bargoed, 11
Barry, 5
††Cardiff, 2, 3, 4, 6, 7
Chepstow, 16
Monmouth, 17
*Newport, 19, 20
Pontypool and Blaenavon, 18
*Tredegar, 12

Circuit 25—Staffordshire
His Hon. Judge Finnemore
*Dudley, 10, 17
*Walsall, 5, 19
*West Bromwich, 4, 18
*Wolverhampton, 13, 20

Circuit 26—Staffordshire
His Hon. Judge Whitmee
*Hanley, 5 (B.), 19 (B.), 20
Leek, 16
Lichfield, 11
Newcastle - under - Lyme, 17
Redditch, 13
*Stafford, 6 (B.)
*Stoke-on-Trent, 4
Stone,
Tamworth, 12
Uttoxeter,

Circuit 28-Shropshire
His Hon. Judge Samuel, K.C.
Brecon,
Bridgnorth,
Builth Wells,
Craven Arms,
Knighton,
Llandrindod Wells,
Llanfyllin, 13
Llanidloes, 4
Bishops Stortford,
*Cambridge, 11 (J.S.) (B.), 12
Ely, 9
Hitchin, 6
*Huntingdon,
Luton, 12 (R.B.)
March,
Newmarket, 13
*Oundle, 4
Peterborough, 2, 3
Royston,
Saffron Walden,
Thrapston,
Wisbech, 10

Circuit 36—Berkshire
His Hon. Judge Hurst
*Aylesbury, 13 20 (R.B.)
Buckingham, 17
Cheltenham, 10, 11
Henley-on-Thames,
High Wycombe, 5
Northleach,
Oxford, 2, 16 (R.B.)
Reading, 12 (R.B.), 18, 19, 20
Tewkesbury,
Thame, 12
Wallingford, 9
Wantage, 3
Witney,

Circuit 37-Middlesex
His Hon. Judge Sir Gerald Hargreaves
Chesham, 3
*St. Albans, 17
West London, 2, 3, 4, 9, 10, 11

Circuit 38 - Middlesex
His Hon. Judge Andrew
His Hon, Judge Armstrong (Add.)
His Hon. Judge Carey Evans (Add.)
Barnet, 3, 17
*Edmonton, 5, 6, 10, 12, 13, 19
Hertford, 4
Watford, 11, 18

Circuit 39-Middlesex
His Hon. Judge Engleбach
Shoreditch, 2, 5, 6, 9, 10, 12, 13, 16, 17, 19, 20
Windsor, 4, 11, 18

Circuit 40-Middlesex
His Hon. Judge Alchin
His Hon. Judge Drucquer (Add.)
Bow, 2, 3, 4, 5, 6, 9, 10, 11, 12, 13, 16, 17, 18, 19, 20

Circuit 41-Middlesex
His Hon. Judge Earengey, K.C.
His Hon, Judge Trevor Hunter, K.C. (Add.)
Clerkenwell, 2, 3, 4, 5, 6, 9, 10, 11, 12, 13, 16, 17, 18, 19, 20

Circuit 42-Middlesex
His Hon. Judge Neal
His Hon. Judge David Davies, K.C.
Bloomsbury, 2, 3, 4, 5, 6, 9, 10, 11, 12, 13, 16, 17, 18, 19, 20

Circuit 43-Middlesex
His Hon. Judge Bensley Wells
Marylebone, 2, 3, 4, 5 6, 9, 10, 11, 12, 13, 16, 17, 18, 19, 20

Circuit 44-Middlesex
His Hon. Judge Drucquer
His Hon. Judge Davies, K.C. (Add.)
Westminster, 2, 3, 4, 5, 6, 9, 10, 11, 12, 13, 16, 17, 18, 19, 20

Circuit 45—Surrey
His Hon. Judge Hancock, M.C.
His Hon. Judge Hurst (Add.)
*Kingston, 3, 6, 10, 13, 17, 20
*Wandsworth, 2, 4, 5, 9, 11, 12, 16, 18, 19

Circuit 46-Middlesex
His Hon. Judge Rees
Brentford, 2, 5, 9, 12, 16, 19
*Willesden, 3, 4, 6, 10, 11, 13, 17, 18, 20

Circuit 47—Kent
His Hon. Judge Daynes, K.C.
His Hon. Judge Hurst (Add.)
Southwark, 3, 5, 9, 10 16, 17
Woolwich, 11

Circuit 48—Surrey
His Hon. Judge Bensley Wells
His Hon. Judge Collingwood (Add.)
His Hon. Judge Dale (Add.)
Dorking,
Epsom, 3, 10, 11
*Guildford, 5
Horsham,
Lambeth, 2, 3, 4, 5, 6, 9, 10, 12, 13, 16
Redhill, 4

Circuit 49—Kent
His Hon. Judge Clements
Ashford, 9
*Canterbury, 3
Cranbrook, 16
Deal,
*Dover, 18
Folkestone,
Hythe,
*Maidstone, 13
Margate,
*Ramsgate, 11
††Rochester, 4, 5
Sheerness,
Sittingbourne, 17
Tenterden,

Circuit 50—Sussex
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††Chichester, 13
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Circuit 51 — Hampshire
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* = Bankruptcy Court
† = Admiralty Court
(R.) = Registrar
(J.S.) = Judgment Summonses
(B.) = Bankruptcy
(R.B.) = Registrar in Bankruptcy
(Add.) = Additional Judge
(A.) = Admiralty

lamps nightly. The under porter was to do all the work of the scavenger and wash-pot excepting emptying the privies, which was to be done jointly by the two porters. They were also to take care of the fire engines and keep them in proper working order.

December 1.—Sir Henry Lopes, after nine years service as a judge of first instance, became a member of the Court of Appeal on 1st December, 1885. He was raised to the peerage in 1897 as Baron Ludlow of Heywood, in Wiltshire, and, shortly afterwards, retired from the Bench. He died two years later. Overshadowed in the Court of Appeal by Lord Esher, he was at his best in first instance, the personification of common sense.

FAILING MINDS

In supporting the Bishops (Retirement) Measure in the Church Assembly recently, the Bishop of Winchester said: "If I go gaga you cannot do anything about it at present." He gave the warning that "there has been a danger of a bishop going beyond the lines in the matter of the control of his mental faculties and being unable to sign a necessary declaration." It is not generally remembered that the situation once nearly arose in the case of the Chief Justiceship, when Lord Denman had overworked himself to the point of collapse. The Spring Assizes on the Western Circuit in 1849 tried him severely, and on 14th April, the day before the commencement of the Easter Term, he had a paralytic stroke, followed shortly by another. His medical adviser ordered him to rest, but he insisted on taking up work again and sat throughout Trinity Term from 22nd May to 13th June. By that time he could barely sign his name and doctors and friends united to urge him to resign. This, however, he was reluctant to do, for he knew he would be succeeded by Lord Campbell, to whom, on personal grounds, he had a strong objection. There was a real danger that a third stroke might completely incapacitate him. Lord Brougham told Campbell: "I was afraid he would have gone off in a fit. The danger is that he may have another attack depriving him of his reason and disqualifying him to resign and then we should be driven by necessity to bring in an Act of Parliament . . . with a 'Whereas Thomas Lord Denman, by the visitation of Providence is deprived of his reason be it enacted that' etc." However, it did not come to that, for in February, 1850, he was persuaded to retire and Campbell duly succeeded him.

IT HAPPENED IN FICTION

Though judges have been known to behave on occasion with marked eccentricity, one has to cross over from fact to fiction for an example of actual or presumed insanity on the Bench. In the opening chapter of "The Club of Queer Trades," by G. K. Chesterton, is an account of how "one of the most acute and forceful of the English judges suddenly went mad on the Bench . . . For some months, indeed, for some years, people had detected something curious in the judge's conduct. He seemed to have lost interest in the law . . . He talked more like a priest or a doctor, and a very outspoken one at that. The first thrill was probably given when he said to a man who had attempted a crime of passion: 'I sentence you to three years' imprisonment under the firm and solemn and God-given conviction that what you require is three months at the seaside.' He accused criminals from the Bench, not so much of their obvious legal crimes, but of things that had never been heard of in a court of justice, monstrous egoism, lack of humour and morbidity deliberately encouraged. Things came to a head in that celebrated diamond case in which the Prime Minister himself, that brilliant patrician, had to come forward, gracefully and reluctantly to give evidence against his valet. After the detailed life of the household had been thoroughly exhibited, the judge requested the Premier again to step forward, which he did with quiet dignity. The judge then said in a sudden grating voice: 'Get a new soul. That thing's not fit for a dog. Get a new soul.'" The climax came at the end of a long libel action between two financiers. The judge's summing up was as follows:—

"O rowty-owty tiddly-owty
Tiddly-owty tiddly-owty
Highty-ighty tiddly-ighty
Tiddly-ighty ow."

He then retired from public life.

CORRESPONDENCE

[The views expressed by our correspondents are not necessarily those of THE SOLICITORS' JOURNAL*]*

Accountant's Certificate Rules

Sir,—It would be interesting to know why footnote (*g*) to the Form of Accountant's Certificate, set out in the schedule to the Accountant's Certificate Rules, 1946, states that "*one or other or both*" (the italics are not mine), of the sub-paragraphs of para. 2 (1) must be deleted. May there not be cases where there are both trivial breaches of the rules which were rectified and serious breaches requiring to be set out on the back of the form?

Why, too, does r. 12 exclude para. (2) of r. 3 from the provisions which the council has power to waive? The operative words of the paragraph are "the Council may, at their discretion."

"LEARNER."

Simplified Drafting

Sir,—The bucking broncos were good fun, but discerning subscribers must not be "taken for a ride."

To the general rule that *writers* pre-suppose *readers*, the conveyancing draftsman is no exception, but we may well ask "for what readers does he write?" Your contributor says, in effect, that he writes for the parties "expressing in words the agreed rights and obligations of the parties—to those parties." I venture to suggest that this proposition is no more than a half-truth, since it largely ignores the practical consequences of defective drafting.

If a document proves ambiguous and controversial, it is not with the parties—or very rarely—that a solution will be found. From client to solicitor, from solicitor to counsel, and from counsel to court, such will be the sequence. Amongst this mixed bag of readers the lay client counts for little. What he may think of the offending phrase and its draftsman by this time is most probably unprintable, but in any case it is irrelevant.

How then can it be said that the draftsman writes for the client? His rightful instinct from the first is to satisfy a ghostly company of other and more austere critics—court, counsel and solicitors—whose standards, though more severe, are at all events neither capricious nor wholly unpredictable.

I cannot but agree that the last thing the draftsman wants to do is "to provide courts of justice with material." In this respect he differs from the popular novelist inasmuch as his aim is to keep his circulation down. If, however, he thinks fit to cock a weather eye on those members of his "reading public," by whose verdict, in the last analysis, his script must stand or fall, he cannot in all fairness be accused of that. Indeed, courts of justice seem to share with Mudies' subscribers a marked reluctance to read the same story twice, a point which the draftsman would do well to note before he forswears the book of precedents.

MANAGING CLERK.

Ridicule as punishment

Sir,—Referring to the suggestion that the introduction of ridicule into the punishment of motor-driving offences would be effective, though probably impracticable, may I suggest that if the person convicted could, as part of the punishment, be relegated to the category of learner for a period, and required to pass out of it by the usual test, the desired result might be achieved.

Hove, 3. C. W. BIRD.

RECENT LEGISLATION

STATUTORY RULES AND ORDERS, 1946

No. 1884. **Double Taxation Relief** (Estate Duty) (Canada) Order. November 6.

No. 1885. Double Taxation Relief (Taxes on Income) (Canada) Order. November 6.

No. 1886. Double Taxation Relief (Taxes on Income) (Southern Rhodesia) Order. November 6.

No. 1942. **Local Loans** (other than Loans to Local Authorities). Treasury Minute fixing Rates of Interest. November 19.

No. 1908. **Maintenance of Dependants Reciprocal Enforcement.** Order in Council extending the Maintenance Orders (Facilities for Enforcement) Act, 1920, to Saskatchewan, British Columbia and Manitoba. November 6.

No. 1896. **New Towns Act, 1946** (Registration of Orders) Rules. November 6.

[Any of the above may be obtained from the Publishing Department, S.L.S.S., Ltd., 88/90, Chancery Lane, London, W.C.2.]

NOTES OF CASES

COURT OF APPEAL

Huxley *v.* Wharncliffe Woodmoor Colliery Co., Ltd.

Scott, Tucker and Asquith, L.JJ. 31st July, 1946

Master and servant—Workmen's compensation—Industrial disease—Death of workman—Claim by dependants—Medical referee's certificate negativing disease—Whether conclusive—Workmen's Compensation Act, 1925 (15 & 16 *Geo.* 5, *c.* 84), *s.* 43.

Appeal from a decision of Judge Essenhigh given at Barnsley County Court.

A workman was certified by a certifying surgeon to be suffering from a certain disease mentioned in the Third Schedule to the Workmen's Compensation Act, 1925. On the employers' appeal, the medical referee certified that he was suffering from no such disease. The workman having died some months later, his widow claimed compensation from the employers on the basis that the workman had died of the disease in question. It was agreed that the disease had not been contracted after the date of the medical referee's certificate. The county court judge said that he would have accepted the medical evidence and awarded in favour of the widow had he not considered that the medical referee's certificate was conclusive in favour of the employers. He therefore awarded in their favour. The widow appealed. By s. 43 of the Workmen's Compensation Act, 1925: "(1) Where—(i) the certifying surgeon . . . certifies that the workman is suffering from a disease mentioned in the Third Schedule to this Act and is thereby disabled . . . or (iii) the death of a workman is caused by any such disease; and the disease is due to . . . any employment in which the workman was employed . . . within the twelve months previous to the date of the disablement . . . his dependants shall be entitled to compensation . . . as if the disease . . . were a personal injury by accident arising out of and in the course of that employment, subject to the following modifications: . . . (*f*) if an employer or a workman is aggrieved by the action of a certifying . . . surgeon in giving or refusing . . . a certificate of disablement . . . the matter shall . . . be referred to a medical referee, whose decision shall be final . . . (2) . . . the date of disablement shall be . . . as the certifying surgeon certifies . . . Provided that . . . (*b*) where a workman dies without having obtained a certificate of disablement . . . it shall be the date of death . . ." (*Cur. adv. vult.*)

SCOTT, L.J., in a written dissenting judgment, said that s. 43 (1) (*f*) was inapplicable to a claim by dependants because it related back to s. 43 (1) (i) and so applied only where the claim was by a living workman. Subsection (2) was the more difficult one to construe. The necessity of showing that the disease was due to the nature of the workman's employment within the twelve months preceding the date of disablement made that date relevant, and it might well have been thought by Parliament that the certificate of surgeon or referee fixing that date should be made conclusive as between the dependants and the employer; but the question was whether the language of the subsection was sufficient to supply that *lacuna* by an unexpressed implication. On the whole, he did not think that it could be so supplied. His lordship analysed s. 43 in support of his view that the Act did not in death cases make the certification machinery any part of the dependants' statutory "right of action," or impose any condition about medical certificates on their right of compensation for death of the workman by a scheduled disease, and said that he would allow the appeal and award the widow the agreed figure of compensation.

TUCKER, L.J., said that the authorities (see *Harper* v. *Dick, Kerr & Co.* (1920), 13 B.W.C.C. 250) which made it clear that, under the Act, claims by dependants were independent of the rights conferred on a workman during his life, afforded no guidance in the construction of s. 43, which section Lord Greene had explained in *Lloyd* v. *Conduit Collieries, Ltd.* (1937), 30 B.W.C.C. 293. The facts of disablement and its date were essential to the proof of the claim of both the workman during his life and his dependants after his death. The certificate of surgeon or referee, or death, as the case might be, fixed the date of disablement. In case of death where there was a valid certificate, the dependants had to establish the further fact that the disease was one mentioned in the Third Schedule. The conclusiveness of the certificate, as to both date of disablement and nature of disease, was of vital importance to the dependants, and it would be curious if the certificate were conclusive as to date but not as to the disease. In case of death where there was a valid certificate, therefore, in his opinion, on the true construction of s. 43 taken as a whole, the conclusiveness of the medical referee's certificate provided for in s. 43 (1) (*f*) applied equally in the case of a claim by the dependants on death as in the case of a claim by the workman in his lifetime. If that were so, was the certificate not conclusive where in favour of the employer, as certifying that the deceased was not suffering from a scheduled disease? True, in such a case there was no date of disablement and, therefore, no disablement established by the certificate: see *Lloyd* v. *Conduit Collieries, Ltd., supra*; but it did not follow that the certificate was inoperative. In case of death where there was no certificate, the fact of disablement must be proved *aliunde*, and the date of death was taken. No doubt, in that sole case the dependants could make good their claim without the aid of any certificate. Where, however, there was in existence a certificate of a medical referee, proviso (*b*) to s. 43 (2) had no application, and, in his (his lordship's) opinion, the employer was entitled to rely on the certificate as conclusive of the non-existence of the industrial disease at the relevant date. He thought that to be the true construction of the difficult s. 43, which formed in itself a code dealing with industrial disease and consequent disablement in cases of both claims by workmen and claims by dependants where death had occurred, and that the appeal should be dismissed.

ASQUITH, L.J., said that he thought that Scott, L.J.'s conclusions might well follow from his assumption that s. 43 (1) (*f*) had no application to a claim by dependants. He (Asquith, L.J.) could not, however, accept that assumption, and he agreed that the appeal should be dismissed for the reasons given by Tucker, L.J.

Leave was given to appeal to the House of Lords.

COUNSEL: *Beney*, K.C., and *Withers Payne*; *P. S. Price.*

SOLICITORS: *Corbin, Greener & Cook*, for *Raley & Sons*, Barnsley; *Johnson, Weatherall & Sturt*, for *Parker Rhodes, Cockburn and Co.*, Rotherham.

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

Royston *v.* Cavey

Scott, Bucknill and Somervell, L.JJ. 11th November, 1946

Procedure—Factory occupied by Minister of Supply—Injury to worker—Action of negligence against nominated defendant—Competence.

Appeal from a decision of Judge Essenhigh given at Rotherham County Court.

The plaintiff was a married woman employed at a Royal ordnance factory. In the early morning, before daylight, she was walking through the factory premises from the place where she had clocked in to the place at which she was to work when she fell into an open trench of the existence of which she was unaware, and which she alleged to have been neither guarded nor lighted. Her action for damages in the county court was based on the common-law duty of the occupier to keep the premises in a safe condition, or, alternatively, on breach of statutory duty under the Factories Act, 1937. The county court judge held that the plaintiff had failed to prove that the defendant had been guilty of want of care or breach of statutory duty, and gave judgment for the defendant. The plaintiff appealed.

During the arguing of the appeal, SCOTT, L.J., observed that the defendant had clearly merely been nominated to defend the action on behalf of the occupier of the factory, namely, the Minister of Supply.

SCOTT, L.J., giving judgment explaining why the court could not continue hearing the appeal, said that the Minister of Supply could not be sued because the Ministry, being a Government Department, was in law the Crown, against which an action for tort would not lie. A practice had grown up over many years by which Government Departments allowed actions to proceed against some named person as their representative, although that named person was not in fact in any way concerned in causing the injuries complained of. That practice had been common in the common-law courts and also in the Admiralty Division, where the commanding officer of a ship would be nominated as defendant although many different acts, defaults, or omissions on board the ship might have contributed to a collision. In such cases, if the plaintiff in the action succeeded, the department concerned paid; but the practice was based on a fiction, and in *Adams* v. *Naylor* (1946), 90 SOL. J. 527; 62 T.L.R. 434, the House of Lords had expressed disapproval of it. The present proceedings had been begun before that decision was given, but the court felt, without in any way prejudging the merits of the appeal, that they could not go on without transgressing the principles which the House of Lords had laid down. The plaintiff could only succeed by proving that the defendant himself owed some duty to her and that he had failed to discharge it, and the effect of the remarks of the House of Lords was that the Court of Appeal had no jurisdiction to hear a claim where the

cause of action alleged was not against the real defendant, but against some nominated defendant who had been agreed on by the parties. In *Adams* v. *Naylor*, *supra*, the remarks of the House on that point were not necessary for their actual decision, but the Court of Appeal must treat those remarks as an expression of principle. The position was that, though a plaintiff might clearly have a good claim which would entitle him to damages, he could not succeed against the Crown, for the Crown was not liable in tort. There was, therefore, a very strong reason for legislation allowing actions of tort against the Crown. With the complexity of modern business carried on by Government Departments, and the great increase in commercial concerns owned by the Government, it was a crying evil that legislation to remedy the position should not be passed by Parliament. He wished to express his opinion as strongly as possible that it would be a crying wrong if the necessary legislation were not introduced at an early date. The court could only dismiss the appeal.

BUCKNILL and SOMERVELL, L.JJ., gave judgment agreeing. Leave to appeal to the House of Lords was given.

COUNSEL: *Fox-Andrews*, K.C., and *Cleworth*; *Drabble*.

SOLICITORS: *Gibson & Weldon*, for *J. Whittle, Robinson and Bailey*, Manchester; *Treasury Solicitor*, for *Wing, Keer & Bolsover*, Sheffield.

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

CHANCERY DIVISION

In re The Pharmacy and Medicines Act, 1941; Potter & Clarke, Ltd. *v.* The Pharmaceutical Society of Great Britain

Wynn-Parry, J. 25th October, 1946

Medicine—Retail Sale—"Substance recommended as a medicine"—"Proprietary Designation"—Pharmacy and Medicines Act, 1941 (4 & 5 *Geo.* 6, *c.* 42), *ss.* 11, 12, 17.

Summons.

This summons was taken out by the plaintiffs under the Pharmacy and Medicines Act, 1941, to obtain a construction of certain of the provisions of the Act, the defendants being the Pharmaceutical Society of Great Britain, who under s. 15 of the Act had the duty to take all reasonable steps to enforce its provisions. Section 11 of the Act provides that "... no person shall (*a*) sell by retail any article consisting of or comprising a substance recommended as a medicine" unless the appropriate designation and quantitative particulars of the constituents are given in accordance with the requirements of the Act. Section 12 provides that "(1) ... no person shall sell by retail any article consisting of or comprising a substance recommended as a medicine unless he is" an authorised person as described in the section. Subsection (5) provides "It shall also be a defence for a person charged with selling in contravention of subs. (1) or subs. (2) of this section an article consisting of or comprising a substance recommended as a medicine to prove that the sale was effected at a shop and that the article was sold under a proprietary designation." Section 17, the definition section, provides that "... 'proprietary designation,' in relation to the sale of an article consisting of or comprising a substance recommended as a medicine, means a word or words used in connection with the sale of articles consisting of or comprising the substance for the purpose of indicating that they are the goods of a particular person by virtue of manufacture, selection, certification, dealing with or offering for sale ... 'substance recommended as a medicine' in relation to the sale of an article consisting of or comprising a substance so recommended, means a substance which is referred to: (*a*) on the article, or on any wrapper or container in which the article is sold, or on any label affixed to, or in any document enclosed in, the article or such a wrapper or container ... in terms which are calculated to lead to the use of the substance for the prevention or treatment of any ailment, infirmity or injury affecting the human body." The first question raised was whether, on the true construction of the Act, the five substances referred to, when sold in wrappers labelled as therein specified, were "substances recommended as a medicine." The second question was whether the substance known as "All Fours Chest and Lung Mixture" sold by the companies therein specified was sold under a proprietary designation, when sold in bottles labelled as therein set out.

WYNN-PARRY, J., said that the first substance mentioned was senna pods, which according to the evidence, were prescribed as a laxative. They were sold in a wrapper by the plaintiffs bearing a label "Senna Pods," followed by the plaintiffs' name. The question was whether senna pods sold in such a wrapper were substances "recommended as a medicine." The term medicine was not defined in the Act. Looking at ss. 11 and 12, it appeared to him that, as a matter of construction, a sale did not contravene this Act unless it could be fairly said that there was a recommendation of the substance as a medicine; whether or not the substance was in fact a medicine was irrelevant. In every case the question was, having regard to the terms of the document: could it be fairly said to be calculated to lead to the use of the substance for the prevention or treatment of any ailment affecting the human body? Applying that principle, he could find nothing in this label calculated to lead to the use of senna pods for the prevention or treatment of any ailment. If a person bought a packet labelled "senna pods" for use as a laxative, he did so not because of any recommendation on the label, but because of his knowledge, not acquired from a perusal of the label, but, *aliunde*, that senna pods were useful as a laxative. So far as senna pods were concerned, he answered question 1 in the negative. The next substance was "Fluid extract of Cascara Sagrada." The label was in the following form: first appeared the trade mark of the vendor, and then were these words: "Fluid Extract of Cascara Sagrada;" underneath that, "British Pharmacopœia;" and below that, "Dose, half to one teaspoonful in half a wineglassful of water." This case stood on a different footing. The label was clearly calculated to lead to the purchase of this bottle for treating an ailment. There were two pointers which supported this view: the reference to the British Pharmacopœia and the reference to dosage. It was argued that the definition of "substance recommended as a medicine" in s. 17 demanded that the terms in which the substance was referred to should be fairly calculated to lead to the use of the substance for the prevention or treatment of some particular ailment: *Nairne* v. *Stephen Smith & Co. and the Pharmaceutical Society of Great Britain* [1943] K.B. 17, at p. 22; 86 SOL. J. 349, *per* Atkinson, J. He agreed that the reference must be to some particular ailment or group of ailments. This did not conclude the question. The terms of this label made it clear that the contents of the bottle were offered for sale as a medicine. The evidence was that customers always bought cascara for human use as a laxative. In this case, the recommendation appeared on the label, and it was proper to admit the evidence of public knowledge of the use of the substance to identify the recommendation with a particular ailment affecting the human body. As regards cascara, he would answer the question in the affirmative. His lordship proceeded to consider three further substances, and then turned to the consideration of the question whether the substances referred to in question 2 were sold under "a proprietary designation." He said that the word "designation" was used in the sense of a distinctive title or appellation. It followed that when a set of words were said to amount to a "proprietary designation," it must first be possible to say of them that on a fair construction and having regard to the context in which they appeared, they were to be read together, and secondly, when read together, they formed a distinctive title or appellation. Thus "Beecham's Pills" amounted to a designation, while "Pills manufactured by Beecham" did not. Further, the words must contain, as part of the designation, words indicating that they were the goods of a particular person by virtue of manufacture, selection, certification, dealing with or offering for sale. It followed that the substance "All Fours Chest and Lung Mixture," when sold in bottles on which the description of the substance was separated by a statement as to price and dosage from the name of the manufacturers, was not sold under a proprietary designation. With regard to the remaining label, "Pritchards Extra Strong All Four Chest and Lung Mixture," he held it did contain a proprietary designation.

COUNSEL: *Glynn Jones*, K.C., *G. G. Honeyman* and *R. P. Colinvaux*; *Blanco White*, K.C., and *Holroyd Pearce*, K.C.

SOLICITORS: *Constant & Constant*; *Thompson, Quarrell and Megaw*.

[Reported by Miss B. A. BECKWELL, Barrister-at-Law.]

COURT OF CRIMINAL APPEAL

R. *v.* Easterling

Lord Goddard, C.J., Lynskey and Denning, JJ.
15th October 1946

Criminal law—Practice—Quarter sessions—Conviction—Postponement of sentence—Remand in custody.

Appeal from conviction.

The appellant was convicted at West Kent Sessions of receiving stolen property. Sentence was postponed until the next sessions, the appellant being remanded in custody in the meanwhile. Denning, J., allowed him bail. He now appealed.

LORD GODDARD, C.J., having delivered the judgment of the court allowing the appeal on the ground that the summing-up did not clearly distinguish between the conduct of the appellant,

who gave full value for the goods in question, and that of the other men involved, added that it nowhere appeared why the chairman had taken the course of postponing sentence on the appellant and his co-prisoners. No doubt, had there been no appeal, when the appellant had come up for sentence at the next sessions the court would have taken into account the fact that he had been waiting in custody for seven weeks before being sentenced. The Court of Criminal Appeal could not, however, approve of that practice, and did not understand what reason for it there could, in the absence of special circumstances, be at the ordinary quarter sessions, which were held four times a year in most counties, unlike London or Middlesex Sessions, which were almost continuous. That practice should not be followed unless there were some special object to be gained by it. A prisoner might offer on conviction to take steps to restore property stolen, or to give some information. The court might then—he (his lordship) did not say that it ought—consider that to be a good reason for postponing sentence in order to see what happened between then and the next sessions. They might decide that the sentence would in any event be one of more than three months, and that no harm would be done by the remand in custody, after which they could take into account, in passing sentence, anything which might have happened in the interval. Here there appeared to have been no such special reason, and the practice should not have been followed. Fortunately Denning, J., had allowed bail and no great harm had been done. The appellant was now discharged.

COUNSEL: *Boileau*; *Dow.*

SOLICITORS: *Registrar, Court of Criminal Appeal*; *Director of Public Prosecutions.*

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

PARLIAMENTARY NEWS

HOUSE OF LORDS

Read First Time:—

FORESTRY BILL [H.L.]. [19th November.

To provide for the dedication of land to forestry purposes; for the deduction from compensation of grants made by the Forestry Commissioners in the event of compulsory purchase of the land in respect of which the grants were made; and for the execution on behalf of the Secretary of State of instruments relating to land placed at the disposal of the Forestry Commissioners.

Read Second Time:—

GREENWICH HOSPITAL BILL [H.L.]. [21st November.

TRUSTEE SAVINGS BANKS BILL [H.L.]. [19th November.

HOUSE OF COMMONS

Read First Time:—

CIVIC RESTAURANTS BILL [H.C.]. [19th November.

To empower local authorities to establish and carry on restaurants, and otherwise provide for the supply to the public of meals and refreshments, and for purposes connected with the matters aforesaid.

COTTON (CENTRALISED BUYING) BILL [H.C.].

To make provision for centralised buying, selling and distribution of raw cotton, for the establishment of a Commission for that purpose, and for the purpose of research in connection with raw cotton and its manufacture, and for matters connected therewith. [20th November.

ROYAL MARINES BILL [H.C.]. [21st November.

To extend the time limited for service in the Royal Marine Forces.

TRAFALGAR ESTATES BILL [H.C.]. [18th November.

To terminate the annuity payable to the holder for the time being of the title of Earl Nelson, and to make further provision as to the Trafalgar Estates.

Read Second Time:—

EXPIRING LAWS CONTINUANCE BILL [H.C.]. [21st November.

MINISTRY OF DEFENCE BILL [H.C.]. [22nd November.

UNEMPLOYMENT AND FAMILY ALLOWANCES (NORTHERN IRELAND AGREEMENT) BILL [H.C.]. [21st November.

QUESTIONS TO MINISTERS

COAL INDUSTRY NATIONALISATION (VESTING DATE)

Captain CROOKSHANK (*by Private Notice*) asked the Minister of Fuel and Power whether he can now make an announcement about fixing the Primary Vesting Date under the Coal Industry Nationalisation Act.

THE MINISTER OF FUEL AND POWER (Mr. Shinwell): After careful consideration, and after consultation with the Board, I have decided that the transference of the mines to national ownership shall take place on 1st January, 1947, and I accordingly propose to make the necessary Order under the Act to fix this as the Primary Vesting Date. [18th November.

PROOF OF DEATH IN SCOTTISH COURTS

Mr. HECTOR HUGHES asked the Secretary of State for Scotland (1) if he is aware of the difficulty and expense which confront the Scottish dependents who have to prove the deaths of sailors in the merchant navy reported missing; and if he will introduce legislation under which the courts of Scotland will be empowered to accept as proof of such deaths the certificates of the appropriate shipowners;

(2) if he is aware that legal difficulties relating to inheritance, succession and the like, have arisen in Scotland owing to the absence of statutory authority enabling the sheriffs of Scotland to accept as proof of death certificates from the Admiralty, War Office, or Air Ministry, that a sailor, soldier or airmen, is reported missing; and if he will take steps to provide such authority.

Mr. WESTWOOD: The provision made by the Confirmation of Executors (War Service) (Scotland) Act, 1940, is limited to persons missing during the "war period," which ended with the expiration of the Emergency Powers (Defence) Act, 1939. I shall, of course, be ready to consider any evidence which my hon. and learned friend may submit as to the need for further provision but with the present pressure of the legislative programme I could not undertake to introduce early legislation. [19th November.

PENSIONS APPEAL TRIBUNALS (CASES)

Mr. BOSSOM asked the Minister of Pensions if he will give the number of cases listed for hearing in front of the independent appeal tribunals since 1st August, 1946; the number of cases which have been withdrawn; the number of those withdrawn in which a pension has subsequently been allowed; and the number of cases which have been heard in which the claims have been allowed since 1st August, 1946.

Mr. WILFRED PALING: The number of cases listed for hearing by the pensions appeal tribunals since 1st August, 1946, is somewhat over 11,000. About 50 cases have been withdrawn by appellants and about 1,750 by the Ministry for further consideration. Pension has been granted in 180 of the cases withdrawn by the Ministry, and attributability has been allowed in 340 cases where pension was already in payment on the basis of aggravation. Two thousand, one hundred and eighty-six cases have been allowed by the tribunals since 1st August, 1946. [19th November.

CROWN PROCEEDINGS BILL

Sir J. MELLOR asked the Attorney-General whether he has considered the decision and recommendations of the Court of Appeal in *Royston* v. *Cavey* [584 of this issue]; and what action he proposes to take.

THE SOLICITOR-GENERAL: I have considered the case of *Royston* v. *Cavey* to which the hon. member refers. The Government are fully aware of the necessity of introducing legislation to deal with this matter as soon as Parliamentary time is available.

A draft of the necessary Bill is in preparation in order that as soon as Parliamentary time can be found, it can be ready to be introduced. The Bill prepared by the Crown Proceedings Committee and included in their report published in April, 1927, has been found not entirely satisfactory, and the necessary alterations are being made in the new draft. [19th November.

ALIMONY (ENGLAND AND SCOTLAND)

Lieut.-Commander CLARK HUTCHISON asked the Secretary of State for the Home Department whether he will introduce legislation during the present session to improve the procedure for enforcing Scottish orders for the payment of alimony in England and *vice versa*.

Mr. EDE: I regret not being able to reply in the affirmative. [21st November.

CHILD ADOPTION

Mr. PEART asked the Secretary of State for the Home Department if he has any proposals to reform the procedure of adoption societies and the whole system of private adoptions.

Mr. EDE: The work of adoption societies was reviewed in 1937 by a departmental committee and was subsequently regulated by the Adoption of Children (Regulation) Act, 1939, which came into effect in 1943. The Care of Children Committee, which recently reported, took the view that it is too soon to review the workings of that Act but they made certain recommendations on the subject of adoption, including private adoptions, which are being examined by the Government.

Mr. SOLLEY: In considering this matter is my right hon. friend taking into account two important details: first the particulars entered on the birth registration certificate of adopted persons, and second the law of the devolution of property on intestacy which involves considerable hardship in cases where adopted children are concerned?

Mr. EDE: Yes, sir. Those are two of the matters to which I am giving very earnest consideration, but the second does present some most astounding complications. [21st November.

FORENSIC SCIENCE LABORATORIES (INFORMATION)

Major LEGGE-BOURKE asked the Secretary of State for the Home Department if he will make a statement on the availability to a defendant of the services of his department's laboratories, explaining the procedure to be adopted by a defendant in obtaining information likely to be to his advantage.

Mr. EDE: The primary purpose of the Forensic Science Laboratories, which are maintained at the cost of police funds, is to assist the police in the investigation of crime. It is, however, the recognised principle that the results of any examination by a forensic science laboratory should by made available to the defence by the prosecution where the examination throws any light on the case. [21st November.

JURY SERVICE

Mr. GEORGE JEGER asked the Secretary of State for the Home Department whether he will issue a general instruction to clerks of the peace that veterinary surgeons should be granted exemption from service as jurors.

Mr. EDE: I have no authority to issue any such instruction. Exemption from jury service is governed by statutory provisions and legislation would be required for the purpose which my hon. friend has in mind.

Mr. SOLLEY: May I ask my right hon. friend whether, when such new legislation is being considered, account will be taken of the necessity of adequately reimbursing existing jurors for the expenses they incur when compelled to undertake jury service?

Mr. EDE: Of course, the whole of the matter will be borne in mind, but I should not propose to pay veterinary surgeons more than doctors. [21st November.

NATIONALITY OF MARRIED WOMEN

Sir T. MOORE asked the Secretary of State for the Home Department whether he is yet in a position to make a statement regarding the retention of British nationality by women who have married foreigners or British subjects resident in the Dominions.

Mr. EDE: British born women who marry British subjects resident in the Dominions do not under existing law lose British nationality but the question of allowing British born women who in certain cases lose British nationality on marriage to foreigners is one of the nationality matters to be discussed with representatives of the Dominions at a conference to be held early in the New Year. [21st November.

COURT ORDERS (BRITISH SUBJECTS ABROAD)

Mr. ROYLE asked the Secretary of State for the Home Department if he is aware that it is impossible for a wife holding a court separation order against her husband who is employed by the Control Commission for Germany to obtain a revision of such order owing to the husband being domiciled abroad; and if he will take steps to introduce legislation to alter this position.

Mr. EDE: Before a court varies an order an opportunity must be given to the party affected to be heard, and if one of the parties is abroad, whether in Germany or elsewhere, there is—apart from the absence of power to serve a summons—the practical difficulty of requiring him or her to come from a distant country for the purpose. The Maintenance Order (Facilities for Enforcement) Act, 1920, affords a remedy in some cases as regards countries within the British Commonwealth, but as regards foreign countries the difficulties of finding any effective remedy are great. [21st November.

POSSESSION CASES (COSTS)

Captain CROWDER asked the Attorney-General if he will consider some means whereby the costs of county court cases can be substantially reduced, having regard to the large increase in the number of applications for eviction orders which are now being taken to the county court by property owners who wish to regain possession of their property, as a result of which a tenant defending his case often has to meet high legal costs which are beyond his means.

THE SOLICITOR-GENERAL: In possession cases in the county court the county court judge has complete discretion as to the scale on which costs should be paid. In practice costs in such cases are awarded on a very low scale, in the majority of cases, either Scale A of the higher scale, or Part II of the lower scale, and in such cases some of the costs incurred by a successful plaintiff may have to be borne by himself. Moreover, the party ordered to pay costs may apply for time to pay and an order may then be made for payment by instalments. This being so, I do not think there is a case for treating the question of costs in county court possession cases, independently, or in priority to, the general question of costs in the other types of litigation. [21st November.

PROCEEDINGS AGAINST THE CROWN

Mr. LAVERS asked the Attorney-General how he proposes to implement his promise on 8th October, concerning actions for damages against the Crown that pending the introduction of legislation the Government would do their best to ensure that none of His Majesty's subjects is deprived of a remedy in respect of wrongful acts by Crown servants, in view of the decision of the Court of Appeal in the case of *Royston* v. *Cavey* [p. 584 of this issue], that an action by a plaintiff against a nominated defendant could not be heard as the court had no jurisdiction; and if he is aware that the matter is urgent in order that claims for damages on behalf of injured workpeople can be proceeded with.

THE SOLICITOR-GENERAL: It is impossible to give an answer to cover all cases. Generally speaking, the Treasury Solicitor will make available to the plaintiff's solicitor all information to enable him (the plaintiff's solicitor) to identify and proceed against the appropriate defendant in cases in which there is a defendant who, without infringing the principle enunciated in *Adams* v. *Naylor* and *Royston* v. *Cavey*, can be made liable. This will cover a great many cases, but in cases in which this cannot be done, if no *ad hoc* arrangement of some other kind can be made, the Crown will be ready to submit the claim to arbitration in whatever manner is best calculated to ensure that the claim can be decided on its merits. [21st November.

DIVORCE CASES (PROCEDURE CHANGES)

Mr. REES-WILLIAMS asked the Attorney-General what steps will be taken by His Majesty's Government to implement the recommendations in the second interim report of the committee on procedure in matrimonial causes.

THE SOLICITOR-GENERAL: As stated by my noble friend the Lord Chancellor on 13th November, the Government have considered the second interim report of the Denning Committee and have decided to adopt the proposals made in Part I of the report recommending that the county court judges should be appointed as Special Commissioners of the High Court with unlimited jurisdiction in divorce. My noble friend is now considering the administrative arrangements necessary to implement this part of the report, and it is hoped that by January the county court judges will be sitting regularly as Special Commissioners of the High Court to take their share of disposing of the mass of divorce cases.

Part II of the report recommends a large number of reforms in the procedure and practice of the Divorce Court and the Divorce Registry, nearly all of which are directed to reducing costs and securing expedition. This part of the report is being examined in detail by my noble friend in consultation with the President of the Divorce Division. [21st November.

NOTES AND NEWS

Honours and Appointments

The Lord Chancellor has appointed His Honour Judge TUDOR REES to be the Judge of the District of Brentford County Court, in addition to the district of which he is now the Judge, in place of His Honour Judge Neal, M.C. His Honour Judge Tudor Rees will cease to sit as additional Judge at the Bow and Shoreditch County Courts. The appointment takes effect from 1st January, 1947.

Sir ARNOLD MCNAIR, C.B.E., K.C., LL.D., F.B.A., has been elected Treasurer of the Honourable Society of Gray's Inn for the year 1947, in succession to The Honourable Mr. Justice WALLINGTON, who has been elected Vice-Treasurer for the same period.

Major P. M. HITCHIN has been appointed to the Colonial Service as Registrar of the High Court, Nyasaland. He was admitted in 1939. He was commissioned in 1940, and served in East Africa for four years.

Professional Announcement

ROBERT WOODBRIDGE and CYRIL FRANK WOODBRIDGE, formerly of 5, Serjeant's Inn, Fleet Street, E.C.4, announce that they have entered into partnership with JOHN WARWICK RIVAZ HUNT and are practising at 5, New Bridge Street, London, E.C.4, and 209, High Street, Brentford, Middlesex. The name of the firm remains WOODBRIDGE & SONS.

Notes

A meeting of the Section of Medicine of the Royal Society of Medicine was held at No. 1, Wimpole Street, W.1, on 26th November, 1946, at 5 p.m., when there was a discussion on "Birth Control, Some Medical and Legal Aspects."

A meeting of the United Law Society was held in the Barristers' Refreshment Room, Lincoln's Inn, on Monday, 18th November, with Mr. R. J. Kent in the chair. Mr. J. T. Plume proposed: "That this House dissents from the decision of the Court of Appeal in *Cowen* v. *Cowen*, 61 T.L.R. 525—(wilful refusal to consummate—use of contraceptives)." Mr. E. Dennis Smith opposed. Messrs. F. R. McQuown, O. T. Hill and R. J. Kent also spoke. Mr. Plume replied and the motion was lost by two votes.

Seven more rent tribunals have now been set up. They are as follows:—

Guildford and Reigate. Caterham and Warlingham, Chertsey, Dorking, Egham, Haslemere and Leatherhead, and the rural districts of Dorking and Horley, Guildford and Hambledon: Chairman: Mr. P. Peebles; member and reserve chairman: Mr. S. J. Baker; member: Mr. F. S. Tosswill; reserve member: Mr. R. T. Gray; clerk: Mr. K. C. Wood. Office: 182, High Street, Guildford.

Bath. Calne, Salisbury (New Sarum), Bradford-on-Avon, Shepton Mallet and the rural districts of Frome and Shepton Mallet: Chairman: Mr. E. H. Bence; member and reserve chairman: Mr. R. C. S. Ellison; member: Mr. E. C. Workman; reserve member: Mr. E. R. Grant; clerk: Mr. H. J. Grantham. Office: 5, Henrietta Street, Bath.

Watford. Hemel Hempstead, Hertford and St. Albans, Berkhamsted, Bushey, Harpenden, Rickmansworth, Ware and Welwyn Garden City and the rural districts of Elstree, Hatfield, Hemel Hempstead, Hertford, Watford and Welwyn. Chairman: Mr. W. R. L. Trickett; member and reserve chairman: Mr. A. E. Kimpton; member: Mr. A. E. Hall; reserve members: Mr. S. C. Payne, Mrs. S. Welch, Mrs. A. Curl and Mr. C. F. T. Blyth; clerk: Mr. G. F. Child. Office: 14, High Street, Watford.

Walsall. West Bromwich, Lichfield, Wednesbury, Cannock, Rugeley and Willenhall and the rural district of Lichfield. Chairman: Mr. B. R. Whitehouse; member and reserve chairman: Mr. G. G. Evans; member: Mr. S. Skitt; reserve member: Mr. A. Hampton. Office: Jaycey Buildings, Park Street, Walsall.

Carlisle. Appleby and Whitehaven, Dalton-in-Furness, Penrith, Cockermouth, Ulverston, Windermere, Lakes, Maryport and the rural districts of Cockermouth, Alston with Garrigill, Millom, and Ennerdale. Chairman: Mr. I. G. Sim; member and reserve chairman: Mr. G. Jackson; member: Mr. J. J. Hetherington; reserve members: Mr. H. Skerry and Major A. Chicken. Office: Town Hall, Penrith.

Portsmouth and Southampton. Gosport, Romsey, Ryde, Winchester, Fareham and Havant and Waterloo. Chairman: Sir Frederick Sparks. Member and Reserve Chairman: Mr. W. Bullock. Member: Mrs. E. M. Berryman. Reserve Members: Mrs. A. C. Ferguson and Mr. A. J. Harman. Clerk: Mr. E. J. Snape. Office: 125, London Road, Portsmouth.

Gloucester, Cheltenham and Hereford. Cirencester, Malvern and Charlton Kings, and the Rural Districts of Cheltenham, Cirencester, North Cotswold and Upton-upon-Severn. Chairman: Mr. G. Blagg. Member and Reserve Chairman: Mr. J. J. Edmonds. Member: Mr. F. G. England. Reserve Members: Mr. C. G. Bentley, Captain F. E. Chester and Mr. A. D. Somervail. Clerk: Mr. G. F. Armitage. Office: 1, Wolseley Terrace, Cheltenham.

Wills and Bequests

Mr. T. S. Earkes, retired solicitor, of Moreton-in-Marsh, left £33,309, with net personalty £33,222.

Mr. G. J. Turner, barrister-at-law, of Surbiton, left £23,830.

COURT PAPERS

SUPREME COURT OF JUDICATURE

MICHAELMAS SITTINGS, 1946

COURT OF APPEAL AND HIGH COURT OF JUSTICE—CHANCERY DIVISION

Date.		Rota of Registrars in Attendance on Emergency Rota.	Appeal Court I.	Mr. Justice Vaisey.
Mon., Dec.	2	Mr. Reader	Mr. Andrews	Mr. Jones
Tues., ,,	3	Hay	Jones	Reader
Wed., ,,	4	Farr	Reader	Hay
Thurs., ,,	5	Blaker	Hay	Farr
Fri., ,,	6	Andrews	Farr	Blaker
Sat., ,,	7	Jones	Blaker	Andrews

Date.		Group A. Mr. Justice Roxburgh *Witness.*	Mr. Justice Wynn-Parry *Non-Witness.*	Group B. Mr. Justice Evershed *Non-Witness.*	Mr. Justice Romer *Witness.*
Mon., Dec.	2	Mr. Farr	Mr. Blaker	Mr. Hay	Mr. Reader
Tues., ,,	3	Blaker	Andrews	Farr	Hay
Wed., ,,	4	Andrews	Jones	Blaker	Farr
Thurs., ,,	5	Jones	Reader	Andrews	Blaker
Fri., ,,	6	Reader	Hay	Jones	Andrews
Sat., ,,	7	Hay	Farr	Reader	Jones

STOCK EXCHANGE PRICES OF CERTAIN TRUSTEE SECURITIES

Bank Rate (26th October, 1939) 2%

	Div. Months	Middle Price Nov. 25 1946	Flat Interest Yield £ s. d.	‡ Approximate Yield with redemption £ s. d.
British Government Securities				
Consols 4% 1957 or after	FA	117½	3 8 1	1 18 11
Consols 2½%	JAJO	99	2 10 6	—
War Loan 3% 1955–59	AO	108½	2 15 4	1 17 8
War Loan 3½% 1952 or after	JD	107⅞	3 4 11	2 2 1
Funding 4% Loan 1960–90	MN	120¾	3 6 3	2 2 11
Funding 3% Loan 1959–69	AO	108⅛	2 15 2	2 3 0
Funding 2¾% Loan 1952–57	JD	104¼	2 12 6	1 16 4
Funding 2½% Loan 1956–61	AO	105	2 7 7	1 18 6
Victory 4% Loan Av. life 18 years	MS	123½	3 4 9	2 7 6
Conversion 3½% Loan 1961 or after	AO	115	3 0 10	2 4 10
National Defence Loan 3% 1954–58	JJ	108⅜	2 15 4	1 11 5
National War Bonds 2½% 1952–54	MS	104⅛	2 8 0	1 14 6
Savings Bonds 3% 1955–65	FA	108	2 15 7	1 18 0
Savings Bonds 3% 1960–70	MS	109⅛	2 14 10	2 4 0
Treasury Stock 2½%, 1975 or after	AO	100½	2 9 9	2 9 6
Guaranteed 3% Stock (Irish Land Acts) 1939 or after	JJ	102	2 18 10	—
Guaranteed 2¾% Stock (Irish Land Act 1903)	JJ	101⅛	2 14 2	—
Redemption 3% 1986–96	AO	117⅛	2 11 1	2 6 2
Sudan 4½% 1939–73 Av. life 16 years	FA	124	3 12 7	2 12 10
Sudan 4% 1974 Red. in part after 1950	MN	117	3 8 5	—
Tanganyika 4% Guaranteed 1951–71	FA	108	3 14 1	1 17 1
Lon. Elec. T.F. Corp. 2½% 1950–55	FA	102	2 9 0	1 16 8
Colonial Securities				
*Australia (Commonw'h) 4% 1955–70	JJ	114	3 10 2	2 3 5
Australia (Commonw'h) 3½% 1964–74	JJ	114	2 17 0	2 5 4
*Australia (Commonw'h) 3% 1955–58	AO	106	2 16 7	2 5 0
†Nigeria 4% 1963	AO	122	3 5 7	2 8 1
*Queensland 3½% 1950–70	JJ	105⅛	3 6 4	1 12 6
Southern Rhodesia 3½% 1961–66	JJ	115	3 0 10	2 6 0
Trinidad 3% 1965–70	AO	110	2 14 7	2 6 11
Corporation Stocks				
*Birmingham 3% 1947 or after	JJ	102	2 18 10	—
*Leeds 3½% 1958–62	JJ	110	2 19 1	2 4 1
*Liverpool 3% 1954–64	MN	105	2 17 2	2 5 2
Liverpool 3½% Red'mable by agreement with holders or by purchase	JAJO	130	2 13 10	—
London County 3% Con. Stock after 1920 at option of Corporation	MSJD	101⅛	2 19 1	—
*London County 3½% 1954–59	FA	110⅛	3 3 4	1 19 7
*Manchester 3% 1941 or after	FA	102	2 18 10	—
*Manchester 3% 1958–63	AO	107	2 16 1	2 6 5
Met. Water Board 3% "A" 1963–2003	AO	108	2 15 7	2 7 8
*Do. do. 3% "B" 1934–2003	MS	102	2 18 10	—
*Do. do. 3% "E" 1953–73	JJ	105	2 17 2	2 2 1
Middlesex C.C. 3% 1961–66	MS	109	2 15 1	2 4 10
*Newcastle 3% Consolidated 1957	MS	106	2 16 7	2 7 5
Nottingham 3% Irredeemable	MN	111½	2 13 10	—
Sheffield Corporation 3½% 1968	JJ	118	2 19 4	2 8 0
Railway Debenture and Preference Stocks				
Gt. Western Rly. 4% Debenture	JJ	123½	3 4 9	—
Gt Western Rly. 4½% Debenture	JJ	125½	3 11 9	—
Gt. Western Rly. 5% Debenture	JJ	136	3 13 6	—
Gt. Western Rly. 5% Rent Charge	FA	133½	3 14 11	—
Gt. Western Rly. 5% Cons. G'rteed.	MA	131½	3 16 1	—
Gt. Western Rly. 5% Preference	MA	119½	4 3 8	—

* Not available to Trustees over par.

† Not available to Trustees over 115.

‡ In the case of Stocks at a premium, the yield with redemption has been calculated at the earliest date; in the case of other Stocks, as at the latest date.

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